

DEPARTMENT OF SOCIAL SERVICES

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February 27, 1986

ALL-COUNTY LETTER NO. 86-17

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS

SUBJECT: CHRISTOPHER T. v. SAN FRANCISCO UNIFIED SCHOOL DISTRICT CONSENT JUDGEMENT

REFERENCE: ALL-COUNTY LETTER 84-128

The Consent Judgement for Christopher T. v. San Francisco Unified School District has been approved by all parties to the case and the court. County welfare departments (CWDs) and county counsels are encouraged to obtain and read this Consent Judgement so they will have an understanding of the issues in the lawsuit and their applicability to CWDs. County counsels can request a copy of the Consent Judgement from the Department of Social Services (DSS).

In this case the court found that the San Francisco Unified School District failed to evaluate and place educationally handicapped children in residential placements where appropriate. The court further found that the San Francisco Department of Social Services and San Francisco Juvenile Court Probation Department caused educationally handicapped children to be placed in residential placements but only after requiring that the children be made dependents of the Juvenile Court. These findings make it clear that educationally handicapped children who do not meet the Welfare and Institutions Code (WIC) Section 300 criteria cannot be made dependents solely on the basis of their disability or of their need for educational residential program placements. In short, the consent decree enforces the law which prohibits requiring a parent to relinquish custody in order to receive an educational residential placement for an educationally handicapped child entitled to such placement under The Education for All Handicapped Children Act (EHA). It also enforces the law which prohibits requiring the parents of such a child to pay for the costs of such placement to the extent such services (including room and board) are covered by the EHA.

Although the lawsuit only involved San Francisco County agencies and the State Departments of Social Services and Education, the issues are of statewide importance. The California State DSS agreed to issue an All-County Letter (ACL) within one year of the date of filing of the Judgement which covers the relevant subject matter. This ACL serves to satisfy that commitment by providing

information about the EHA and discussing its relationship to responsibilities of child welfare agencies.

The EHA (42 USCA Sections 1400 et seq.) mandates a free appropriate public education for all handicapped children ages 3-21 and sets up a system of federal financial support to states who implement the law. Basic components of law provide for:

Identification

School districts must actively seek out handicapped children and provide free testing and other evaluation procedures to identify the special education needs of each child. Testing must be multi-disciplinary: No one test (such as an IQ test) or single procedure will suffice. The test must also be as free as possible of cultural or other bias.

Access to a Free Appropriate Public Education

"A free appropriate public education" means the provision of education and related services at no cost to the handicapped persons or his parents. Appropriateness is defined by the Individual Education Program (IEP) designed to meet the student's learning needs. An IEP is a written plan addressed to the educational needs of a single child, and includes special education and related services which will be provided to the child.

Team Approach

Federal requirements (34 CFR 300.345) specify that the IEP is to be developed by a representative of the local education agency qualified to provide or supervise the program, a teacher, parent(s), or other individual(s) at the discretion of the parents or agency, and assessment personnel if the child is being evaluated for the first time.

Education in the "Least Restrictive Environment"

A handicapped child must be placed in a program in the "least restrictive environment" that suits his or her special needs - in other words, a program as close as possible to that of a non-handicapped child. When the appropriate services are not available, the local school district must create them or pay for comparable ones for the child - in a neighboring school district or in a private or state school.

Related Services

These services include transportation, and such developmental corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation,

and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and include the early identification and assessment of handicapping conditions in children. (34 CFR 300.13).

Parent Participation

A key feature of the EHA, especially for development of the IEP (34 CFR 300.345) is parent participation. Districts must take steps to insure that the parents are in the plan development meeting or afforded the opportunity to participate. Parent rights are protected in the procedural safeguards section of the regulations (Subpart E), which specifies how parents are to be informed, types of appeals and hearings, protections in evaluation procedures, and confidentiality.

The above mentioned components of the EHA apply to local education agencies. The CWD's responsibilities for these children are as follows:

Any child who is now receiving child welfare services (CWS) or may receive them in the future and who appears to need educational or educational related services, i.e., tutoring, remedial reading or out-of-home placement in order to benefit from a special education program must be referred by the CWD to the local education agency for evaluation. The CWD is responsible for the care, custody and control of WIC Section 300 dependent children and must refer them to the local education agency if the CWD believes or has reason to believe that the child may need educational services. Additionally, the CWD is responsible for referring these children to the local education agency as part of the Information and Referral (I&R) process. The DSS will not approve or reimburse as non-mandated child welfare services (Manual of Policies and Procedures Sections 30-120.3, 30-220.2, 30-420.2) any educational or educational related services.

If you have any questions please contact your Adult and Family Services Operations Bureau Consultant at (916) 445-0623.



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cc: CWDA